

Plumb Island.

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Acts and Laws

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the Thirtieth Day of *May* 1739. And continued by Protogations to Wednesday the Fifth Day of *December* following.

C H A P. VIII.

An Act for the effectual preventing of Horses, Neat Cattle, Sheep and Swine from running at large or feeding upon a certain Island called *Plumb-Island*, lying in *Ipswich Bay* in the County of *Essex*.

WHEREAS it appears to this Court, That there is a great and valuable Estate consisting of Salt Meadow lying on the Island at the Bottom of *Ipswich-Bay*, called *Plumb-Island*, which is exposed and liable to be destroyed by Horses, Cattle and other Creatures, being turned or drove on said Island, and feeding down the Beach-Grass, and treading down the Sea Walls, and by ill-minded Persons setting Fires on said Island, whereby the Shrubs and Grass are destroyed, and open a Course to the Sea and Sand; which if not prevented, may over run and destroy said Estate and Interest to the great Loss of the Proprietors and no small Damage of the Publick;

Preamble.

For Remedy whereof,

Be it enacted by his Excellency the Governour, Council and Representatives in General Court, assembled, and by the Authority of the same,

That from and after the Publication of this Act, no Person shall presume to turn or drive any Neat Cattle, Horses, Sheep or Swine upon said Island or Beach to feed at large there, upon Penalty of *Twenty shillings* a Head for all Neat Cattle and for every Horse or Mare, and *Five shillings* a Head for every Sheep

No Horses, Cattle, &c. to go at large on Plumb Island.

Penalty. Sheep or Swine so turned to feed at large upon said Island or Beach ; which Penalty shall be recovered by any one of said Proprietors or their Agents, being thereunto lawfully authorized ; the one half of the Forfeiture to be to him that shall inform and sue for the same, the other half to be for the Use of the Poor of the Town where the Beach lies so trespassed on.

Cattle, &c. **And be it further enacted by the Authority aforesaid,** That it shall and may be lawful to and for any of the Owners or Proprietors of the said Island, if they shall find any Cattle, Horse Kind, Sheep or Swine going at large upon the Island or Beach aforesaid, to impound the same and to give publick Notice thereof in the said Town and the two next adjoining Towns, and shall relieve the said Creatures while impounded, with suitable Meat and Water ; and if the Owner thereof shall appear, he shall pay the Sum of *Twenty shillings* for each Head of Neat Cattle or Horse Kind, *Five shillings*, for each Sheep, and *Five shillings* for each Swine found feeding as aforesaid, and Costs of impounding the same : And if no Owner appear within the Space of six Days to redeem the said Cattle, Horse-Kind, Sheep or Swine so impounded, and to pay Damage and Costs occasioned by impounding the same, then and in every such Case, any of the aforesaid Proprietors impounding such Cattle, Horse-Kind, Sheep or Swine, shall cause the same to be sold at publick Vendue for Payment of the Damages sustained by Reason of such Cattle, Horse-Kind, Sheep or Swine feeding upon the Island or Beach aforesaid, as also to pay the Cost and Charges arising about the same, (publick Notice of the Time and Place of such Sale in said Town where the Cattle are impounded, being given forty-eight Hours beforehand) and the Overplus (if any be) arising by such Sale, to be returned to the Owner of such Cattle, Horse-Kind, Sheep or Swine, at any Time within twelve Months next after upon his demanding the same ; but if no Owner appear within the said twelve Months, then the said Overplus shall be one half to the Party impounding, and the other half to the Use of the Poor of the said Town, provided that the Penalty for Cattle, Horse Kind, Sheep and Swine impounded as aforesaid, shall not be construed to extend to any such as are truly belonging to any of the Inhabitants of said Island and fed in their Inclosures ; but that all such Cattle, Horse-Kind, Sheep and Swine breaking their Inclosures, and found feeding at large on said Island, and therefore impounded, shall be liable only for Damages and Cost, as in other Cases of Cattle found Damage Feazant : Any Thing in this Act to the contrary notwithstanding.

Damages to be paid.

Saving:

And be it further enacted by the Authority aforesaid, That every Person or Persons who shall, during the Continuance of this Act, be convicted of setting Fire to any Part of said Beach-Grass, Bushes or Shrubs growing thereon, shall forfeit the Sum of *Ten pounds* to be recovered by Action in any Court proper to try the same, and applied in the Way and Manner aforesaid.

Penalty for setting Fire to the Grass, Shrubs, &c.

AND whereas the small Wood, Shrubs and Rushes are of great Service to prevent the Sands being blown on the said Meadow ;

Be it further enacted by the Authority aforesaid, That whoever shall be convicted of cutting down any Bushes, Shrubs or Tree under the Dimensions of six Inches diameter, growing on said Beach or Marsh, shall forfeit and pay the Sum of *Ten shillings* for each Brush, Shrub or Tree, to be recovered and applied in the Way and Manner aforesaid.

Penalty for cutting down Trees, Shrubs &c.

This Act to continue and be in Force for the Space of five Years from the Publication thereof and no longer.

[The foregoing Act was published December 29. 1739.]

An

Admission of Town Inhabitants.

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CHAP. IX.

An Act in Explanation of sundry Acts heretofore made, referring to the Admission of Town Inhabitants.

Notwithstanding the Provision made by the Act pass'd in the twelfth and thirteenth Years of King WILLIAM the Third, (entitled, An Act directing the Admission of Town Inhabitants) "That no Town shall be obliged to be at Charge for the Support of any Person residing there, unless such Person have continued in such Town (without being warned to depart thence) by the Space of twelve Months, or else have obtained the Approbation of the Town, or the Select-Men thereof for his dwelling there, Yet inasmuch as it is not expressly declared in what Way and Manner such Approbation shall be given, some Doubt hath thereupon arisen, whether the Select-Men or Assessors in any Town, their rating or assessing any Person residing there to Town Charges, and the Inhabitants reaping the Benefit of his Rate, ought not (within the Meaning of the said Act) to have the Force of an Approbation for such Persons dwelling there, so far as to subject such Town to the Charge of his Support in case he stands in need; by Means whereof sundry Disputes and expensive Law-Suits have arisen and may arise unless prevented by this Court;

Preamble:

Be it therefore declared & enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That no Town shall be obliged to be at Charge for the Sup-

port of any Person resident in such Town that hath not continued there so long as to become an Inhabitant, unless he have obtained the Approbation of the Town (at a Meeting of the Inhabitants regularly assembled) or the Approbation of the Select Men (at their Meeting) for his dwelling there; such Approbation of the Select-Men to be given in Writing under their Hands, or under the Hands of the major Part of them: And no Act of the Select-Men or Assessors in rating or assessing any such Person unto any Charges whatsoever, shall subject such Town to any Expences for his Support.

When Persons to be esteemed Inhabitants of any Town:

Their being rated not to make them so

A N D whereas upon the first Paragraph in the Act made in the Fourth and Fifth Years of His present Majesty's Reign, and likewise that made in the Tenth Year of the same Reign, directing the Admission of Town Inhabitants, which relates to the Charges which the Inhabitants of any Town shall be liable to answer, who shall admit and entertain any Person (not being an Inhabitant of such Town) in his House as Tenant or otherwise, for more than twenty Days, and shall not in Writing give such Account to one of the Select-Men or Town-Clerk of such Town, as in said Act is prescribed; a Doubt hath arisen whether the Words [all Charges] are to be construed to extend to the Charges of supporting the Persons so received and entertained, which may arise after he shall have continued in such Town so long as to become an Inhabitant;

Preamble.

Be it therefore declared & enacted by the Authority aforesaid, That the Words [all Charges] in the said Paragraph do ex-

tend to and include the Charge of supporting the Person so received and entertained after he shall have continued his Residence in such Town so long as to become an Inhabitant; and that such Charges may be recovered at any Time after they have arisen, although the Term limited for the Continuance of the said Act or Acts may (at the Time of bringing the Suit) be expired.

What Charges to be recovered for entertaining Persons.

And

And it is hereby further declared and enacted by the Authority aforesaid, That no Forbearance of the Select-Men to warn the Person received and entertained as aforesaid to depart the Town, shall free the Inhabitant of such Town by whom he was admitted and entertained from the Charge aforesaid, who shall violate the said Act by neglecting to give Account or Notice in Manner as is therein directed. And each Person offending (in Violation of said Act) shall be liable to answer the whole of the Charge incurred for the Relief of the Person by him admitted and entertained as aforesaid; and all such Charges are and ought to be understood and accounted to have arisen and accrued to the Town by Reason only of such his Misdeed and Neglect; any others in like Manner offending notwithstanding.

The Forbearance of the Select Men to warn Persons out of Town, not to excuse those that entertain them.

And that the several Acts aforesaid, are and were intended as herein explained, and ought always so to be understood and put in Execution.

CHAP. X.

An Act to impower and oblige the surviving Trustee of the first Fifty Thousand Pounds Loan, so called, to comply with what was enjoined the said Trustees in the several Acts referring to the said Loan.

Preamble. *WHEREAS in the Act for making and emitting the Sum of Fifty Thousand Pounds in Bills of Credit on this Province, made and pass'd in the First Year of the Reign of His late Majesty King GEORGE, it is enacted, "That Andrew Belcher, Addington Davenport, and Thomas Hutchinson, Esqrs; and Mr. John White, and Mr. Edward Hutchinson be the first five Trustees for putting the said Act in Execution;" four of whom, viz. Andrew Belcher, Addington Davenport, Thomas Hutchinson and John White are deceased, and no other Persons have been appointed in the Room of those deceased as aforesaid, so that there is not a major Part of the said Trustees surviving to act in and finish the Trust committed to them by Virtue of the aforesaid Act;*

Edward Hutchinson, Esq; to have the whole Power and Duty of the Trustees of the 50000 l. Loan.

Be it therefore enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That Edward Hutchinson, Esq; the only surviving Trustee as aforesaid, shall be and hereby is fully authorized, impowered and required without Delay, to settle all Accompts respecting the said Fifty Thousand Pounds Loan yet remaining unsettled, and pursue and follow the Directions of the several Acts or Laws of this Province referring thereto in such Manner as is therein directed, and as fully and effectually to all Intents and Purposes whatsoever as if a major Part of the said Trustees were now living, and shall make Report at the next May Sessions of his Doings therein, and shall be entitled to all the Benefit and Profit accruing thereby to the Trustees.

Coroner. Common Roads and private Ways. 697

C H A P. XI.

An Act in addition to an Act intituled, An Act in further addition to the several Acts or Laws of this Province relating to the Office and Duty of a Coroner.

WHEREAS some of the Coroners within this Province have of late greatly multiplied their Deputies, and under Colour of such Deputation, Persons have pretended to be exempted from Duties and Services whereto by Law they are liable;

Preamble.

Be it therefore enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same,

That from and after the first Day of March next, no Coroner shall have Power to appoint a Deputy otherwise than for a particular necessary Occasion, and after such Deputy's Service therein his Power shall cease; and that all Deputy Coroners that may have received a general Deputation before the said first Day of March, their Deputation shall be of no Force or Virtue after the said Term, but shall then cease and be determined, and no Person under Pretence of any such Deputation shall be excused from any Duties or Services whatsoever which he may by Law be otherwise obliged or liable to.

Coroners not to appoint Deputies but for particular Occasions.

No Coroners Deputies to be excused from Duties.

C H A P. XII.

An Act in addition to the several Laws of this Province relating to common Roads and private Ways.

WHEREAS there are many new Plantations and Tracts of Land granted and laid out for Townships (in which 'tis necessary that convenient Ways should be laid) the Proprietors whereof are not by Law obliged or enabled to lay out such Ways, not being vested with the Priviledges of Towns;

Preamble.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same,

That the Proprietors of all such Tracts of Land and new Plantations that are already, or shall hereafter be laid out for Townships be, and hereby are authorized and empowered (by a Committee to be appointed for that Purpose) to lay out convenient Ways within and for such Plantations as the Select-Men in Towns are empowered, to do, and such Ways to lay open, and all Incumbrances thereon to remove; as also to alter or discontinue any such private Way or Ways as they shall judge it necessary so to do.

Proprietors of new Plantations to lay out Ways.

And be it further enacted by the Authority aforesaid,

That when a High-Way or Common-Road through such new Plantation or elsewhere shall be wanting, the Justices of the Court of General Sessions of the Peace in the County where such Lands lye (upon Application to them) may enquire into the Necessity or Conveniency of the Way petitioned for, either by a Committee from among themselves, or such other discreet and indifferent Persons as they shall appoint: And if such High-Way or

Court of General Sessions of the Peace to order High Ways to be laid out thro' new Plantations.

Common Roads and private Ways.

Common-Road shall be judg'd by the Court (upon due Inquiry made as
aforesaid) to be of common Necessity or Conveniency, they shall proceed
in laying out the same, by a Jury in Manner as by Law is already provided.

And be it further enacted by the Authority aforesaid,

How Persons
are to be satis-
fied for Dama-
ges in laying
out private
Ways thro'
their Land.

New Planta-
tions to chuse
Surveyors of
High Ways:

That the Damages which any Person or Persons may sustain in his Land or
Propriety, by the laying out or altering any private Way in such new Plan-
tation, shall be recompenced by such Proprietors, as the Committee laying
out the same, and the Party injured may agree, or as shall be ordered by the
Court of General Sessions of the Peace upon Inquiry into the same by a Jury
to be summoned for that Purpose: And when such Damages shall be occasi-
oned by the laying or altering any common Road, the Proprietors of the new
Plantation, through which such Road is laid, shall make satisfaction to the
Person or Persons injur'd thereby, by the Estimation of the Jury that laid
out the same, unless upon a hearing of the Person who may find himself ag-
grieved by the Estimate of his Damages made by the Jury, the Court should
see Cause to enhance or diminish the same. And the Proprietors of every
such new Plantation, are hereby authorized and required sometime in the
Month of March annually (until such Time as they shall be vested with the
Priviledges of a Town) to chuse two meet Persons to be Surveyors of High-
Ways, whose Duty it shall be, at the Charge of said Proprietors, to keep the
Ways in such Plantation in Repair from Time to Time, and shall have the
same Power to impress Workmen and Teams and to provide Materials, as by
Law is given to other Surveyors of High-Ways, and be under the Obligati-
on of an Oath for the faithful Discharge of their Trust.

This Act to continue in Force for the Space of five Years from the
Publication thereof and no longer.

[The four foregoing Acts were published January 14. 1739, 40.]

B O S T O N: Printed by John Draper, Printer to His
Excellency the GOVERNOUR and COUNCIL.

